UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TOBIAS H. HOLLERER,
GEORGE G. ROBERTSON, DANIEL C. ROBBINS
and MAARTEN R. VAN DANTZICH



Appeal No. 2004-1755
Application No. 09/329,140

HEARD: FEBRUARY 24, 2005

Before JERRY SMITH, RUGGIERO, and MACDONALD, Administrative Patent Judges.
RUGGIERO, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal from the final rejection of claims 1-5, 25-31, 39-42, and 50, which are all of the claims pending in the present application. Claims 6-24, 32-38, and 43-49 have been withdrawn from consideration as being directed to a non-elected species.

The disclosed invention relates to a user interface that facilitates a decision making process such as that involved in

planning a trip. A graphical user interface is provided in which multiple windows having different types of related information present a unified view to a user. The information among the respective windows is linked so that changes made to information in one window are depicted in corresponding changes to the information in the other windows.

Representative claim 1 is reproduced as follows:

1. A man-machine interface method for assisting a user in a decision making process, for use with a machine having a video monitor device and a user input device, the man-machine interface method comprising steps of:

a) accepting an event from the user input device; and

b) generating a display for output on the video monitor device, the display including

i) a first window displaying first information of a first type, the first information being related to the event, and

ii) a second window displaying second information of a second type, the second information being related to the event.

The Examiner relies on the following prior art:

| | | |
|---|---|---|
| Goh | 5,678,015 | Oct. 14, 1997 |
| Horvitz et al. (Horvitz) | 5,880,733 | Mar. 09, 1999 |

Claims 1-5, 25-31, 39-42, and 50, all of the appealed claims, stand finally rejected under 35 U.S.C. § 103(a) as being unpatentable over Goh. Claims 1, 2, 5, and 50 also stand finally rejected under 35 U.S.C. § 102(a) as being anticipated by Horvitz.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs[1] and Answer for the respective details.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the Examiner and the evidence of anticipation and obviousness relied upon by the Examiner as support for the rejections. We have, likewise, reviewed and taken into consideration, in reaching our decision, Appellants' arguments set forth in the Briefs along with the Examiner's rationale in support of the rejections and arguments in rebuttal set forth in the Examiner's Answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention set forth in claims 1-5, 25-31, 39-42, and 50. In addition, we are of the opinion that the disclosure of Horvitz fully meets the invention as recited in claims 1, 2, 5, and 50. Accordingly, we affirm.

---

[1] The Appeal Brief was filed March 19, 2003 (Paper No. 18). In response to the Examiner's Answer mailed May 14, 2003 (Paper No. 19), a Reply Brief was filed December 15, 2003 (Paper No. 20), which was acknowledged and entered by the Examiner as indicated in the communication dated January 7, 2004 (Paper No. 21).

Appellants indicate (Brief, page 3) that the claims on appeal stand or fall together as a group. Consistent with this indication, Appellants' arguments, for each of the stated rejections, are directed solely to features which are set forth in independent claim 1. Accordingly, for the Examiner's 35 U.S.C. § 103(a) rejection of claims 1-5, 25-31, 39-42, and 50, we will select independent claim 1 as the representative claim for all of the rejected claims, and claims 2-5, 25-31, 39-42, and 50 will stand or fall with claim 1. Similarly, we will select claim 1 as the representative claim for the Examiner's 35 U.S.C. § 102(a) rejection of claims 1, 2, 5, and 50, and claims 2, 5, and 50 will stand or fall with claim 1. Note In re King, 801 F.2d 1324, 1325, 231 USPQ 136, 137 (Fed. Cir. 1986); In re Sernaker, 702 F.2d 989, 991, 217 USPQ 1, 3 (Fed. Cir. 1983).

We consider first the Examiner's 35 U.S.C. § 103(a) rejection of representative claim 1 based on Goh. At the outset, we note that, as a general proposition in an appeal involving a rejection under 35 U.S.C. § 103, an Examiner is under a burden to make out a prima facie case of obviousness. If that burden is met, the burden of going forward then shifts to Appellants to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative

persuasiveness of the arguments. See In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976).

Appellants' arguments in response to the Examiner's 35 U.S.C. § 103(a) rejection of independent claim 1 assert a failure to establish a prima facie case of obviousness since all of the claimed limitations are not taught or suggested by the applied prior art Goh reference. After reviewing the Goh reference in light of the arguments of record, we are in general agreement with the Examiner's position as stated in the Answer.

Appellants initially contend (Brief, pages 4 and 5) that, in contrast to the claimed invention, the Goh reference merely discloses the toggling between a four-dimensional display and a two dimensional display and does not disclose the display of different windows with different information related to an event as claimed. Appellants further assert that the term "event" must be interpreted as defined in the specification, i.e., "a special occasion or activity (e.g., a trip or vacation)." (Reply Brief, page 3).

Our review of Appellants' specification reveals, however, no specific definition of the term "event." The specific instances in

the specification referenced by Appellants at page 3 of the Reply Brief merely describe the term "event" in non-committal, exemplary language which does not exclude a differing interpretation. In our opinion, Appellants' arguments improperly attempt to narrow the scope of the claim by implicitly adding disclosed limitations which have no basis in the claim. See In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). With the above discussion in mind, we simply find no error in the Examiner's interpretation (Answer, page 4) of the term "event" as "the occurrence of a key press, or a button click, or a mouse movement from the user input device." We further find clear evidence to support the Examiner's interpretation in the form of the excerpt from the Microsoft Press Computer Dictionary attached to the Answer.

We also find to be unpersuasive Appellants' assertion (Reply Brief, pages 3 and 4) that, even assuming, arguendo, that the term "event" can be interpreted as a mouse click, the first and second information displayed in the windows of Goh would not be related to the same event as claimed. In our view, in the example given by Goh at column 6, lines 14-42, referenced by the Examiner (Answer, page 4), different windows with different information are displayed which are related to the "cube/formation" event activated by user

input selection from a drop-down menu. Similarly, Goh describes, at column 5, lines 42-48, a "rotation" event, activated by user input, in which different windows with different information would be displayed related to the activation of the rotation event.

For the above reasons, since it is our opinion that the Examiner's prima facie case of obviousness has not been overcome by any convincing arguments from Appellants, the Examiner's 35 U.S.C. § 103(a) rejection, based on the Goh reference, of representative claim 1, as well as claims 2-5, 25-31, 39-42, and 50 which fall with claim 1, is sustained.

Turning to a consideration of the Examiner's 35 U.S.C. § 102(a) rejection, based on Horvitz, of representative claim 1, and claims 2, 5, and 50 which stand or fall with claim 1, we sustain this rejection as well. Appellants' arguments (Brief, page 7; Reply Brief, pages 4 and 5) with respect to the Horvitz reference mirror those made with respect to Goh, and we find such arguments to be unpersuasive for all of the reasons discussed supra. As with the Goh reference, we find no error in the Examiner's interpretation of the claimed "event" as a user input in the form of a key press, button click, or mouse movement. Similarly, as with the Goh reference, in the Figure 6 embodiment of Horvitz, referenced by the Examiner, the activation of a

"perspective-transform below" button, i.e., an event, will result in the display of different windows with different information related to the activation of the perspective transform event. The "push-back" event in Figure 4 of Horvitz, activated by user selection of push-back button 64, is a further example of different window displays of information related to an event.

For the reasons discussed above, since all of the claimed limitations are present in the disclosure of Horvitz, the Examiner's 35 U.S.C. § 102(a) rejection of independent claim 1, as well as claims 2, 5, and 50 which fall with claim 1, is sustained.

In summary, we have sustained the Examiner's 35 U.S.C. § 103(a) rejection of claims 1-5, 25-31, 39-42, and 50, as well as the 35 U.S.C. § 102(a) rejection of claims 1, 2, 5, and 50. Therefore, the decision of the Examiner rejecting claims 1-5, 25-31, 39-42, and 50 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv)(effective September 13, 2004; 69 Fed. Reg. 49960 (August 12, 2004); 1286 Off. Gaz. Pat. and TM Office 21 (September 7, 2004)).

AFFIRMED

JERRY SMITH )
Administrative Patent Judge )
)
)
)
JOSEPH F. RUGGIERO ) BOARD OF PATENT
Administrative Patent Judge ) APPEALS
) AND
) INTERFERENCES
)
)
)
ALLEN R. MACDONALD )
Administrative Patent Judge )

JFR/dal

Himanshu S. Amin
Amin & Turocy LLP
24th Floor - National City Center
1900 East 9th Street
Cleveland OH 44114